

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Action of February 6, 2004. Applicant respectfully submits that this Amendment and Response address all of the Examiner's rejections and objections and places the Application in condition for allowance. No new matter has been added.

Specification

The abstract of the disclosure was objected due to excessive length. The abstract has been rewritten and is now less than 15 lines and 150 words and is in narrative form.

Claims

Claims 1-39 have been cancelled and rewritten as claims 57-95 in order to put them in the proper format for method claims. Each of the claims 57-95 directly correspond to the original claims 1-39 and no new matter has been added to any of the claims. Independent claims 57 and 79 have been amended to claim laser energy rather than heat energy as being used to heat the tissue, thus placing all of the claims in better condition for allowance, as will be discussed in more detail below.

§ 112 Rejections

The Examiner objected to claims 33-35 for failure to provide antecedent basis. Claims 33-35 have been cancelled and rewritten as claims 89-91. Claims 89-91 provide proper antecedent basis for all of the features claimed therein.

§ 102 Rejections

Claims 1-8, 10-17, 19-24, 27-32, 36-41, 44-50, and 53-56 were rejected under § 35 USC 102(b) as being anticipated by Diederich (US 5,620,479). Addressing only the independent claims, Applicant submits that Diederich fails to disclose all of the features of claims 1, 23, and 40.

Claim 1 is herein cancelled and rewritten as claim 57. Claim 57 requires the step of sending laser energy through the probe. Diederich does not teach using laser energy. The Examiner refers to column 1, line 60 through column 2, line 6 of Diederich as disclosing laser energy. Applicant respectfully disagrees.

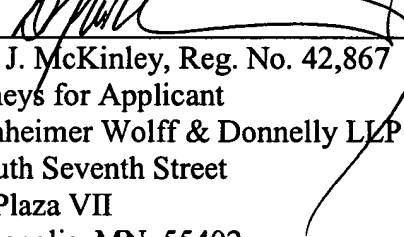
Diederich teaches only the use of ultrasonic energy to heat tissue. Though Diederich mentions laser energy in the Background of the Invention portion of its specification, the discussion only mentions that laser energy has been used but does not provide any specifics on how it was used. None of the devices taught by Diederich can be used to deliver laser energy to a volume in a patient. The Diederich devices would be rendered inoperable if they were used with laser energy and thus Diederich does not anticipate claim 1, now claim 57.

Claims 23 and 40 require that the probe body is arranged to provide an expansion zone of reduced pressure at the end of the probe body so as to cause the cooling fluid to expand as a gas thus generating a cooling effect. Diederich does not teach an expansion zone. Further Diederich does not teach the use of a cooling liquid undergoing a phase change to gas such that the latent heat of vaporization may be extracted from the distal tip of the probe. The Examiner refers to a thermocooling mechanism without explaining how this mechanism teaches or suggests an

expansion zone in which cooling liquid expands to a gas. The Applicant respectfully submits that Diederich does not anticipate claims 23 (now 79) and 40.

All of the remaining claims depend from claims 40, 57 and 79. The Applicant respectfully submits that all of the claims, in their present forms, are in condition for allowance. The Applicant respectfully requests that the Examiner speak with its attorney, David J. McKinley, at 612-607-7384, if any questions can be answered that will expedite bringing the application to issuance.

Respectfully submitted,

By 
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